

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CLYDE B. WILLIAMS,

Petitioner,

v.

Case No. 05-C-89

BYRAN BARTOW,

Respondent.

DECISION AND ORDER

Petitioner Clyde Williams has filed a notice of appeal and a request for a certificate of appealability. The certificate of appealability may issue only if the applicant makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). The standard for making a “substantial showing” is whether “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)(internal quotation marks omitted) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). If the court issues a certificate of appealability it must indicate on which specific issue or issues the petitioner has satisfied the “substantial showing” requirement. 28 U.S.C. § 2253(c)(3).

Where a district court has rejected a petitioner’s constitutional claims on the merits, “the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484. Williams requests a certificate of appealability as to each of the

six claims he advanced on the merits in his habeas action in this court. The request will be granted in part and denied in part.

As noted in my earlier order dismissing his petition, the *ex post facto* claim had no apparent merit, as the relief he continues to seek has already been granted. Thus, I find that reasonable jurists could not debate that claim and I will accordingly deny the COA in part. His other claims, though dismissed on the merits, are not so baseless that they could not reasonably be debated. Accordingly, the request for a COA as to the petitioner's claims for double jeopardy, vindictive prosecution, ineffective assistance of appellate counsel, speedy trial, and due process is GRANTED.

SO ORDERED this 21st day of December, 2005.

s/ William C. Griesbach
William C. Griesbach
United States District Judge